

REMARKS

Reconsideration of the captioned application as amended herewith is respectfully requested.

This preliminary amendment is filed concurrently with a request for continued prosecution ("RCE") and an information disclosure statement in lieu of filing an appeal brief in response to the Office Action.

The Office Action rejected claims 1 – 36 under 35 USC §103(a) by JP 2-53271 to Okada et al. ("Okada") in view of United States Patent No. 4,309,405 to Guley, et al. ("Guley"). Claims 1, 15, and 23 were cancelled. Claims 2 – 14, 16 – 22, 24 – 36, and 73 remain pending and claims 27 – 72 remain withdrawn in this application after entry of this amendment.

For reasons unrelated to patentability, a) claim 8 was amended to incorporate the language of independent claim 1, as originally filed; b) claim 18 was amended to incorporate the language of independent claims 1 and 15, as originally filed; and c) claim 26 was amended to incorporate the language of claims 1 and 23, as originally filed. Applicants respectfully submit that these amendments did not narrow the scope of claims 8, 18, or 26, respectively.

New claim 73 was added to further highlight another novel feature of the present invention. Support for this new claim may be found in the Specification as originally filed at, for example, page 7, lines 1 – 3 and page 2, lines 8 – 14, and as such does not introduce new matter into the application under 37 CFR 1.121.

The Rejection of Claims 1 – 36 under 35 USC §103(a) as Unpatentable Over Okada in view of Guley Should Be Withdrawn

Claims 1 – 36 stand rejected under 35 USC §103(a) as unpatentable over Okada in view of Guley. Applicants respectfully disagree for the reasons that follow.

Guley is directed to seal coating a pharmaceutical core for purposes of producing a sustained release dosage form. See, e.g., Guley, Abstract and column 4, lines 19 – 22 (emphasis added). Therefore, Applicants respectfully submit that if one were to combine Okada with Guley as proposed in the Office Action, the resulting dosage form would also possess sustained release properties.

By contrast, claim 8 is directed to particles "which meets the USP dissolution specification for immediate release dosage forms (emphasis added)." Similarly, independent claim 18 and 26 are directed to tablets comprised of particles "which meets the USP dissolution specification for immediate release dosage forms (emphasis added)." Further, independent claim 31 is directed to a method of texture masking particles that "meet the USP dissolution specification for immediate release dosage forms (emphasis added)." Therefore, because the combination of Guley and Okada fail to disclose or suggest the claimed invention, that is particles that 'meet the USP dissolution specification for immediate release dosage forms," Applicants respectfully submit that the rejection of independent claims 8, 18, 26, and 31 under 35 USC §103(a) as unpatentable over Okada in view of Guley has been overcome and should be withdrawn.

Claims 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, and 14, which are dependent upon claim 8 and incorporate all of its limitations therein, are likewise also patentable over the combination of Guley in view of Okada in view of the above.

Claims 16, 17, 19, 20, 21, and 22, which are dependent upon claim 18 and incorporate all of its limitations therein, are likewise also patentable over the combination of Guley in view of Okada in view of the above.

Claims 24, 25, 27, 28, 29, and 30, which are dependent upon claim 26 and incorporate all of its limitations therein, are likewise also patentable over the combination of Guley in view of Okada in view of the above.

Claims 32 - 36, which are dependent upon claim 31 and incorporate all of its limitations therein, are likewise also patentable over the combination of Guley in view of Okada in view of the above.

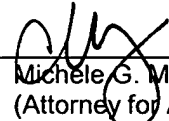
Conclusion


It is submitted that the foregoing amendments and remarks place the case in condition for allowance. A notice to that effect is earnestly solicited.

In the event that all of the claims are not in condition for allowance, Applicants respectfully request for an interview with the Examiner before the preparation of the next Office Action.

Respectfully submitted,

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